

Code of Virginia § [24.2-945](#) states that the provisions of Chapter 9.3 comprising the *Campaign Finance Disclosure Act of 2006* (CFDA), with the exceptions noted in section 1.1 below, apply to all elections for state and local public office in the Commonwealth and to nominations of political party candidates for those offices, whether by primary, nominating conventions, mass meetings, or other nominating methods. Virginia regulates through disclosure and imposes no contribution limits.¹ The electoral board secretary and/or the general registrar are required by CFDA to perform certain duties relating to the filing of campaign finance reports, assessing civil penalties and referring matters to the Commonwealth's Attorney. Neglect of official duties is punishable as a Class 1 misdemeanor. (§ [24.2-1004](#)). The statute of limitations for campaign finance violations is the earlier of one year following discovery or three years after the violation. (§§ [19.2-8](#), [24.2-953](#)). In any case, SBE when it determines the public interest will be served may request the Attorney General or other Governor designated counsel to participate. (§ [24.2-104](#)).

Chapter 9.5 of the Code of Virginia sets forth disclaimer requirements for campaign advertisements and telephone calls also discussed herein.

21.1 Who Is Not Required To File

Referring to § [24.2-945](#), the following candidates for certain offices are exempt from the provisions of CFDA:

- Members of the U.S. Congress;
- Candidates for President and Vice President of the United States;
- Candidates for Soil and Water Conservation District Director;
- Candidates for town offices in towns with a population less than 25,000, except by ordinance; and
- Candidates for political party committee officers.

Write-in Candidates

Generally write-in candidates are subject to all of the same filing and reporting requirements as other candidates under Virginia's Campaign Finance Disclosure Act and campaign advertising

¹ Federal law does impose one important prohibition applicable in state and local elections on contributions from foreign nationals. 8 USC § 441e. This prohibition is enforced by [United States Attorneys](#) to whom any questions about compliance should be directed.

laws (Chapters 9.3 and 9.5) of Title 24.2. Section 24.2-101 provides in part: "For the purposes of Chapters 9.3 (§ 24.2-945 et seq.) and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 3 (§ 24.2-947 et seq.) of Chapter 9.3." Certain requirements may have amount thresholds (e.g., § 24.2-955).

21.2 Allocation of Responsibilities

SBE is responsible for a centralized database to receive campaign finance reports from local candidates and other required filings. Localities remain responsible for maintaining and reviewing local candidate reports as well as assessing any appropriate civil penalties.

Summary of Code filing requirements (§§ 24.2-947.1, 24.2-947.5)

Office or Entity	Filing Type	Filing Location
Political Party Committee Type	Paper Filers	Local, SBE
Political Party	Electronic	SBE
Local ² or Constitutional	Paper	Local
Local or Constitutional	Electronic	Local ³ Statement of Organization; SBE all others
General Assembly	Paper	Local/SBE
General Assembly	Electronic	SBE; copy of final report must also be filed locally
Statewide	Must be filed Electronic	SBE

SBE recommends that the GR/EB provide copies of all reports filed with SBE for public inspection locally by persons who may not have internet access. Only the office required to receive a filing must preserve the records for public inspection and copying for the period required in § 24.2-946.2 (later of one year after final report or through next pertinent general election).

21.3 When a Candidate Must Register

According to § [24.2-947.1](#), a person is required to file a Statement of Organization (Form SBE-947.1) within 10 calendar days of meeting any **one** of the requirements listed below:

- Acceptance of a contribution;
- Expenditure of any funds (including personal funds);

² Local offices include town offices in towns with population over 25,000 or that have enacted ordinances requiring compliance with campaign finance reporting requirements.

³ The local candidate should transmit to SBE (e.g., by fax) a copy of the statement of organization. § 24.2-947.1 (B) (candidate requirement).

- The payment of a filing fee for any party nomination method;
- The filing of a candidate statement of qualification (Certificate of Candidate Qualification Form [Form SBE-501]); or
- The appointment of a campaign treasurer, designation of campaign committee, or designation of a campaign depository (bank account).

The name of the campaign depository is required.

The candidate is still required to file a Statement of Organization (Form SBE-947.1) and **open a separate bank account** prior to filing the request for exemption. **The exemption form can be submitted with the Statement of Organization. The form must be filed before the first filing is due.**

Note: Virginia does not have any financial threshold before a candidate must file a statement of organization; there are no “exploratory” candidate committees under Virginia law.

21.3.1 Amending the Statement of Organization; Candidates Changing Residence

If any of the information listed on the Statement changes at any time, the committee has 10 days from the date of the change to file an amended Statement of Organization. Should a candidate change his residence from one locality to another they must file an amended statement of organization with the GR/EB in the new locality. Subsequent reports must be filed with the new locality. However, if the residence change disqualifies the candidate for the office, a final report should be filed with the former locality and SBE if appropriate.

21.3.2 Election Cycles

Election cycles that begin January 1st after the date of the election for that office: Candidates automatically advance to the next election cycle and file on the appropriate schedule for when that office is on the ballot. This does not mean that the candidates name will be on the ballot. It means that they will be filing on the appropriate filing schedule for the office.

The cover page of reports filed in the next election cycle should indicate the next general election date and year for that office beginning with the first report that contains financial activity in the year immediately following the election.

If, at any point, the candidate decides not to run for election for the same office, then they are still required to file all necessary reports related to that office until such time as they file a Final Report or they will be subject to civil penalties for failure to file the required reports.

Candidates are encouraged to close their committees as soon as they determine that they will not be running for the same office in the next scheduled election.

Special Elections

A candidate wishing to campaign for election to an office that has been or will become vacant but for which no special election has yet been called may file a statement of organization and file reports based on the next general election date for the office sought. The date for the special election can be added when known.

21.4 Certain Candidates Exempt

Section [24.2-948.1](#) allows candidates for local office to request an exemption from filing campaign finance reports (Form SBE-948.1E) throughout their campaign. The exemption applies if the candidate:

- Has not and will not solicit or accept any contribution from any person or political committee during the course of his campaign; and
- Has not and will not contribute to his own campaign more than \$1,000 of his own personal funds; and
- Has not and will not expend more than \$1,000 of his own personal funds during his campaign; and
- Has and will comply with the requirements of CFDA.

The candidate is still required to file a Statement of Organization (Form SBE-947.1) and **open a separate bank account before** filing the request for exemption. **The request for the exemption can be filed with the Statement of Organization form. The request form must be filed before the first report is due. A report must be filed before taking the oath of office or within 30 days after the election.**

By law, a candidate claiming exemption cannot take office until a final report is filed. (§ [24.2-948.1](#)). The final report must show all financial activity of the campaign.

Candidates with a current exemption on file may purchase voter lists from the SBE from funds drawn on the candidate's personal account. (§ [24.2-948.1](#)). These expenditures by the candidate for voter lists shall not count against the candidate's \$1,000 personal expenditure limit.

If the candidate determines that they will solicit contributions **or** expend more than \$1,000 of their own funds, they must rescind their exemption by filing Form SBE-948.1R prior to soliciting contributions **OR** expending more than \$1,000 of their own personal funds. They also must file a campaign finance report **immediately** that covers all financial activity since the beginning of the campaign. The contributions and expenditures report must show all receipts and expenditures from the first activity date. A report is due the earlier of 30 days after the Election Day **or** before taking the oath of office.

21.5 Processing Reports

Section [24.2-946.3](#) subsection C states that the secretary of the electoral board, or if decided by the electoral board, the general registrar must receive and review campaign finance reports required to be filed with them according to the procedures outlined by the SBE.

Each report must be maintained and/or processed as follows:

21.5.1 Catalog Receipt

Separate records must be kept for each candidate filing locally. All official communications from each committee or to each committee also must be kept with the committee's file. For each statement or report filed, the following information must be captured:

- Date Received (a stamp showing date and time is recommended);
- Review and date acknowledged.

When reports are received, a preliminary check should be performed to verify that:

- The report is legible;
- All amounts shown on Schedule G Statement of Funds are itemized on the appropriate schedules and included with the report;⁴ and
- The report is properly signed and dated by the candidate or treasurer.

If any of the above are found to be in error the responsible local election official should require the person filing the report to correct the errors before accepting the report.

21.5.2 Review

Section [24.2-946.3](#) subsection E, requires a more detailed review within **21 days** of the report's receipt. This review should include:

- Check for missing information in required fields. Blank entries or entries such as "N/A," "none," "unknown" etc. are considered "missing information." In fields where "requested" or "unable to obtain" is entered, verify that copies of letters to the contributors requesting this information have been filed.
- Verify inclusion of required information about person making a "designated contribution" to the candidate through a conduit political committee;⁵
- Verify inclusion of required SBE registration number for any federal PAC or out-of-state political committee contributing \$10,000 or more in calendar year;⁶

⁴ Un-itemized contributions should not be included on Schedule G. Contributions of \$ 100.01 or more must be itemized on Schedule A of the Contributions and Expenditures report

⁵ Section 24.2-947.4 as amended effective 1.1.09, expands the committees required to provide information identifying the makers of designated contributions to include political committees, out-of-state committees and federal PACs, in addition to party committees and party groups of elected officials.

- Verify that the beginning balance of the current report (Schedule H, Line 16) equals the ending balance of the previous period's report (Schedule H, Line 19);
- Verify that Line 19 and Line 29 on Schedule H match;
- Verify that contributions are reported in alphabetical order on Schedule A and Schedule B as required by § [24.2-947.4](#);
- Verify that, if applicable, all large pre-election contributions or local large contribution reports were reported and that they were reported locally in a timely manner;
- Verify that expenditures are reported in chronological order (earliest first) on Schedule D;
- **OPTIONAL:** Check for mathematical errors (not required, but practice must be uniform so that if one report is checked, all must be checked);
- Local election officials **ARE NOT** required to verify the validity of the information provided. Persons who challenge the validity of the information contained in a committee's report should be directed to the local Commonwealth's Attorney.

Local election officials are not required to review campaign finance reports for General Assembly candidates who file their reports on paper. SBE is responsible for reviewing these reports. However, if the required local report is not filed or filed late, then the GR/EB is required to assess and collect the required civil penalties following the appropriate procedure.

21.5.3 Complete Filings

If the report is complete, the responsible local election official may want to send a letter to the committee acknowledging receipt of the report and provide the due date for the next report. SBE has a comprehensive set of recommended templates for campaign finance correspondence, including acknowledgment of a complete report.

Reporting forms may be included with correspondence with candidates. Local election officials are not required to provide forms to candidates for the General Assembly. All required forms are available on the SBE website.

21.5.4 Incomplete Filings

When any report is found to be incomplete, the responsible local election official must:

- Prepare a letter to the candidate or treasurer (See Exhibit B) which outlines the errors found in the report. The letter must state that an amended report must be received **within ten days of mailing the letter** or the prescribed civil penalty will be assessed (Due to the short turnaround time for amending the report, SBE recommends that the responsible local election official also contact the committee through another means such as email (if known) or phone in order to ensure that they receive the necessary information. Every committee must receive the same treatment); and

⁶ Section 24.2-947.3:1. A 100% penalty applies. § 24.2-953.5.

- The letter must be sent by Certified Mail - Return Receipt Requested; and
- The original or a copy of each letter should be carefully preserved, with the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee. These records may be needed as evidence in a court proceeding.

The committee must amend the report by the due date or request additional time. § [24.2-953.3](#) allows for extensions of up to 14 calendar days. No further extensions may be granted.

The schedules for assessing penalties for committees that fail to respond to requests for additional information are on SBE's website. Illustrative schedules are also provided later in this chapter.

Reports filed electronically with SBE, by local or constitutional candidates will be forwarded to the appropriate locality. The email will contain the necessary information to assist the responsible local election official in cataloging, reviewing and acknowledging the report.

21.6 Late Reports

The procedures for assessing and collecting civil penalties for the failure to file a required statement or campaign finance report are found in § [24.2-946.3](#). Short extensions of filing deadlines may be requested in writing, before the date the report is due, but only for a very limited list of the most serious types of emergencies. (See § [24.2-946.4](#) and [Candidate Campaign Committee Summary](#).) The schedule for assessing penalties for late reports can be found on SBE's website. Illustrative schedules are provided later in this chapter. If a statement or report is submitted after the deadline, the responsible local election official must follow the procedure below to collect the required penalty:

- A letter must be sent to the committee's primary mailing address as reported on Statement of Organization Form SBE-947.1 notifying them of the violation and assessing the prescribed civil penalty for the missing statement or report. This letter must be sent via *Certified Mail - Return Receipt Requested*.
- An original or copy of each letter must be carefully preserved, with the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee; these records may be needed as evidence in a court proceeding.
- If the candidate or committee fails to pay the assessed civil penalty within **60** days of the letter's receipt date, the matter must be reported to the Commonwealth's Attorney to initiate collection procedures.
- If the letter comes back as unsigned or undeliverable, 60 days should elapse before referring the matter to the Commonwealth's Attorney.

21.7 Failure to File Reports

The procedures for assessing and collecting civil penalties for the failure to file a required statement or campaign finance report are found in § [24.2-946.3](#). The schedule for assessing civil penalties can be found in SBE's website. Illustrative schedules are also provided later in this chapter.

If any committee required to file a statement or report locally fails to do so by the applicable deadline, the appropriate local election official **must**:

- Send a letter to the committee's primary mailing address as reported on Form SBE-947.1 notifying them of the violation and assessing the prescribed civil penalty for the missing statement or report. This letter must be sent via *Certified Mail - Return Receipt Requested*.
- Carefully preserve the original or a copy of each letter, the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee; these records may be needed as evidence in a court proceeding.

If the candidate or committee fails to submit a requested **campaign finance report** within ten days of receipt of the local election official's letter, the civil penalty shall be raised. The schedule for assessing civil penalties can be found on SBE's website. Illustrative schedules are also provided later in this chapter.

- If the candidate or committee fails to pay the assessed civil penalty within **60** days of receipt of the letter, the matter must be reported to the local Commonwealth's Attorney to initiate collection procedures.
- If the candidate pays the penalty but fails to file the required statement or report within **90** days the matter should be reported to the Commonwealth's Attorney to initiate criminal procedures.
- If a letter comes back as unsigned or undeliverable, 60 days should elapse before the matter is forwarded to the Commonwealth's Attorney.

21.8 Special Large Pre-Election Contribution Reporting

Section [24.2-947.9](#) requires certain candidates to file a Large Pre-Election report (Form SBE-947.9) if they receive a contribution exceeding statutory thresholds (\$1,000 or more for General Assembly candidates; \$500 or more for local or constitutional candidates) in the **12** days prior to any nomination or election. The Code provides important details such as coverage of party nominating events in addition to elections in some circumstances. Candidates running unopposed in a primary or other nominating event are not required to file Large Pre-Election Reports. However, they are required for unopposed candidates running in a General Election.

Candidates running for the General Assembly and filing electronically file these reports **only** with SBE. General Assembly candidates who file on paper must make duplicate filings with SBE and locally.

The report must be filed no later than 5 pm on the day following receipt (Monday if contribution is received on a Saturday). The contributions shown on these reports must also be reported again on the candidate's next report.

21.9 Independent Expenditure Reports

[§ 24.2-945.2](#) requires persons, candidate campaign committees, and political committees to submit Independent Expenditure reports within 24 hours of making an independent expenditure exceeding statutory thresholds--\$1,000 for statewide elections and \$200 for other elections.

An independent expenditure is an expenditure made without coordination or involvement of the candidate benefited. "Coordinated or Coordination" is defined in [§ 24.2-945.1](#) (Effective January 1, 2009) to require:

- (i) ...the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee; or
- (ii)... material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

The Code definition does not require that the candidate have knowledge of the expenditure. Knowledge may be relevant in determining penalties. (§ [24.2-953](#).)

21.9.1 Where to File Independent Expenditure Reports

Independent expenditures made to support or oppose a candidate for General Assembly or statewide office must be reported to SBE. Independent expenditures made to support or oppose candidates for local and constitutional offices must be submitted to the local electoral board. The Independent Expenditure Report (Form SBE-945.2) is used.

Any independent expenditure reports filed locally should be placed in the same file with the candidate who is indicated on the report as being supported or opposed.

21.9.2 Independent Expenditure Report Thresholds

The thresholds for filing independent expenditure reports are if the person, candidate campaign committee, or political committee has made independent expenditures during the current election cycle which exceed \$1,000 for a statewide election or \$200 for any other election. **Please note that this is per "election" and not per "candidate."**

21.9.3 Deadline for Filing Independent Expenditure Reports

The reports are due within 24 hours after the earlier of: 1) funds are expended; or 2) express advocacy materials are published or broadcast to the public.

Special Requirement for Political Action and Political Party Committees

PACs and party committees filing independent expenditures reports must also have a current Statement of Organization on file. If the committee is a PAC, state party, or caucus, the local election official receiving a report should check with SBE to ensure that the filer has a current Statement on file with SBE. If the filer is a local party committee, the local election official should make sure that the committee has a Statement of Organization on file with the local election office or with SBE, whichever is appropriate depending on the electronic filing status.

If the committee does not have an active Statement of Organization (typically in the case of a new committee) they must submit a Statement of Organization at the same time that they submit their independent expenditure report. If they are an individual (not a candidate), no additional reporting is required at the time of the independent expenditure report. Because of the \$200 statutory threshold for Statements of Organization, PACs and party committees who must file independent expenditure reports must also file statements of organization if they have not done so already. (See §§ 24.2-945.1, 24.2-949.2 and 24.2-950.2).

The definitions in [§ 24.2-945.1](#) determine status as a PAC, party committee or individual.

21.9.4 Independent Expenditures vs. Coordinated In-Kind Contributions and the "Authorized by..." Disclaimer

An independent expenditure typically involves a political advertisement. Independent expenditures are to be reported by the person making the expenditure. Advertisements representing independent expenditures must include a disclaimer stating that the advertisement was not authorized by any candidate.

In contrast, coordinated expenditures are to be reported as in-kind contributions by the candidate benefited. Advertisements representing coordinated expenditures must include a disclaimer stating that the candidate or his campaign committee “authorized” the advertisement.

21.10 Filing a Final Report

Section [24.2-948.4](#) requires all candidates to file a final report. However, there is no required time in which a candidate must file their final report except when an exempt candidate wins the election (see [§ 24.2-948.1](#)). Further, a final report can be filed at any time. It does not have to be filed during a regular reporting deadline.

Election Cycles

Section § [24.2-947](#) defines the candidate's election cycle as beginning on January 1 of the year that the candidate first seeks election for the office through December 31 immediately following the election for such office. The next election cycle, and any subsequent election cycles, for the candidate who seeks election in successive elections for the same office shall begin on January 1 immediately following each election for the same office and continue through December 31 immediately following the next successive election for the same office.

Solely for administrative purposes, any candidate with an open campaign finance account is required to report in a new election cycle and shall be presumed to be a candidate for election in the succeeding election.

21.10.1 Candidates Seeking Election to the Same Office in Successive Elections

As of January 1 after the November election day, candidates begin a new election cycle. At that time they must automatically begin filing campaign finance reports for the new election cycle.

It is not necessary to request that the committee file an amended Statement of Organization to change the "Election Date" unless other information on the Statement has changed.

The cover page of each subsequent report should indicate the next general election date for that office beginning with the first report that contains financial activity in the year immediately following the election.

21.10.2 Candidates No Longer Running for Election to the Same Office

According to § [24.2-948.4](#), a candidate must continue to file campaign finance reports on the appropriate schedule until all debts for the campaign are paid and the committee's balance is returned to zero (debts may not be transferred to another campaign). A candidate who is running for the same office in successive elections may keep their campaign account open.

In order to file a final report, the **candidate must sign** a *Termination Statement*. This statement is the Cover Sheet to Final Report Candidate Campaign Committee (SBE-948.4) indicating that all debts have been paid, all monies received and spent have been reported and, if surplus funds remain, the amount and disposition of those funds.

21.10.3 Disbursement of Surplus Funds

According to § [24.2-948.4](#), a campaign committee is authorized to disburse surplus funds by:

- Transfer to a future election for the candidate or to retire the deficit of the current campaign;
- Return to a contributor in an amount not to exceed the contributor's original contribution;
- Donation to any organization described in § 170(c) of the Internal Revenue Code (26 USC);
- Contribution to one or more candidates or to any political committee;
- Contribution to any political party committee; and

- Defraying any ordinary, non-reimbursed expense related to his elective office.

No candidate may convert any contributed moneys, securities, or like intangible personal property to his personal use. 2009 legislation clarifies that prohibited personal use extends to immediate family members. 2010 legislation requires the Attorney General to provide a written explanation of the provisions of the Campaign Finance Disclosure Act that prohibit “personal use.” The SBE will distribute this explanation to all candidates, committees, and persons subject to the Act’s provisions.⁷

21.11 Retention of Reports

Campaign Finance Reports filed locally must be retained through the next general election for the office to which they pertain unless the candidate has filed a final statement or seeks election to a different office. Reports for terminating candidates must be retained at least through the later of (1) one year after the final report is filed, or (2) the next general election for the office to which they pertain. After expiration of the applicable retention period, the reports can be destroyed according to the instructions set forth in [GS-01, Voter Registration and Election Records, Library of Virginia](#).

21.12 Reporting Forms

Candidates may call SBE toll-free line (800-552-9745) or visit its website to obtain them. SBE historically has provided a set of reporting forms in candidate packets.

21.13 Summaries of the Act

The *Summaries* of the Act for each type of political committee are available on the SBE website.

21.14.1 Prohibited Methods of Fundraising Inconsistent with Reporting Requirements

While Virginia law generally does not prohibit any political contribution properly reported outside of session, certain fundraising methods incompatible with reporting requirements are prohibited. These prohibited methods include anonymous pass the hat activities as well as raffles of any kind. Raffles are not a permitted form of campaign fundraising and may also violate criminal law.⁸

In contrast, door prizes among qualified attendees, casino nights and auctions are permitted if the required donor information is collected for all participants:

http://www.sbe.virginia.gov/cms/Campaign_Finance/Cidate_Training.ppt#327

⁷ Updated 7/2010 (HB 125)

⁸ See <http://www.oag.state.va.us/OPINIONS/2007opns/06-093-Durham.pdf> (page 4 n.19). See also §§ 18.2-340.16 and 18.2-340.23. Political organizations are not eligible for the below \$25,000 gross receipts exemption in § 18.2-340.23 because limiting language in the definition of “organization” in § 18.2-340.16 requires that the organization use the funds raised exclusively for charitable, educational, religious or community purposes.

The Department of Agriculture and Consumer Services should be contacted for guidelines on casino nights which involve collecting an admission fee for simulated gambling activities without any awards of prizes whatsoever, not even donated items or items “purchased” with tokens awarded in games.

Required information for individual contributors is full name, mailing address, contribution amount, date, occupation, employer name or principal business and its locality. (§ 24.2-949.5). Anonymous contributions are not permitted because it would not be possible to make the required aggregation of contributions from the contributor.

21.15 Mandatory Reporting Apparent Willful Violations

The procedures for reporting willful violations are found in § [24.2-946.3](#). Local election officials are required to report to the Commonwealth's Attorney the names and address of any candidate committee that, after being properly notified, has failed to file, failed to amend incomplete pages of any required report, or failed to pay any civil penalty that has been assessed.

Local election officials must advise the Commonwealth’s Attorney in writing of the name of any candidate who filed an incomplete pre-election report of large contributions or who, upon review of a report, is discovered to have failed to report a large contribution as required.

All correspondence sent to the Commonwealth’s Attorney should include originals or copies of any incomplete pages and letters to the filer with the stamped USPS receipt to document mailing and return receipt signed by the recipient or the USPS returned envelope showing unclaimed by the addressee if applicable.

For Any General Assembly Candidates SBE must be copied on all letters and its attachments.

Local election officials retain as applicable, an original or copy of any report pages submitted by and each letter to the filer, the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee.

The Commonwealth’s Attorney determines whether to prosecute any apparent willful violation referred to that office. After determining no criminal charges will be filed, the Commonwealth’s Attorney may refer the matter to SBE to impose civil penalties.

21.16 Penalties

Section § [24.2-953](#) of the Code of Virginia requires a civil penalty to be assessed for incomplete filings, late filings or the failure to file required campaign finance statements or reports.

The law requires SBE to provide uniform schedules for local election officials to follow in carrying out their responsibility to assess civil penalties for campaign finance report violations. [§ 24.2-946.3\(I\)](#). **No electoral board, Election Official or Commonwealth’s Attorney has the authority to waive or reduce these penalties.** All election officials must follow the uniform

schedules published on the SBE website. Schedules are reproduced in this Chapter for illustration purposes and in the event of any conflict, the website information controls.

- The SBE or local electoral board must notify the committee in violation via certified mail that the electoral board has not received the required Campaign Finance report or that the electoral board is requesting more information.

***** Notification is considered received by the committee even if this notification is not signed for OR if the mailing is returned as undeliverable. *****

The local electoral board has a legal duty to request the Commonwealth's Attorney to initiate collection action if the required payment is not received within **90 days** of the filing deadline for the report to which the penalty relates. [§ 24.2-946.3 \(G\)](#). Willful neglect of official duties is criminal offense. [§ 24.2-1001](#). Candidates for local office must make their checks payable to the local general fund.

The complete schedule of penalties for all committees can be found on our website at:
http://www.sbe.virginia.gov/cms/Campaign_Finance_Disclosure/Information/Laws_Policies.html

21.17 Letter Templates

The following are recommendations for letters to be sent to delinquent committees:

Unfiled Statement of Organization:

Candidate/Committee
Address Line 1
Address Line 2
City, VA Zip Code

Dear Filer:

The Statement of Organization is required to be submitted within 10 days of filing your Candidate Qualification form. ***Our records indicate that your Statement of Organization is past due.***

In the code of Virginia § [24.2-947.1](#) the Campaign Finance Disclosure Act requires that a civil penalty be imposed for failure to file a Statement of Organization within 10 days.

As a result the State Board of Elections must assess a penalty in the amount of \$_____. Please make your check payable to "Treasurer of Virginia" and forward this payment to the State Board of Elections within 10 business days. If payment is not received within 30 days, State Board of Elections will be required to forward this matter to the appropriate Commonwealth's Attorney who must initiate proceedings for its collection.

The Statement of Organization must be filed within ten (10) business days from the date of this letter.

If you have questions or if there may be other pertinent information you require, feel free to contact the Campaign Finance Division at the number listed below.

If you feel that you have received this letter in error please contact me at 800-552-9745.

Sincerely,

Staff Name

Staff Title

Late Filing:

Candidate/Committee
Address Line 1
Address Line 2
City, VA Zip Code

Dear Candidate/Committee:

A careful review of our records shows that “Candidate/Committee, (Candidate/Committee Code)” filed its report on «SUBMISSION_DATE» which was after the report’s required deadline of «Report_Due_Date».

According to the civil penalty schedule adopted by the State Board of Elections, a political committee must be assessed a penalty of \$«AMOUNT_FINED» for not submitting the required campaign finance report by the deadline.

Finally, the failure to pay the civil penalty within 90 days of the deadline for this filing period will result in the State Board of Elections requesting the Commonwealth’s Attorney to enforce collection.

Filing Period Ending	Report Deadline	Assessed Penalty
	«Report_Due_Date»	\$«AMOUNT_FINED»
Invoice Number :	TOTAL AMOUNT DUE	\$«AMOUNT_FINED»

Please make your check in the amount of \$«AMOUNT_FINED» payable to the “Treasurer of Virginia.” Please reference invoice number «FINE_ID» and forward this payment to the State Board of Elections.

If you feel that you require additional information or have received this letter in error please contact the Campaign Finance Division as soon as possible at 800-552-9745.

Sincerely,

Staff Name
Staff Title

Failure to File:

Candidate/Committee
Address Line 1
Address Line 2
City, VA Zip Code

Dear Candidate/Committee:

A careful review of our records shows that “Candidate/Committee, Candidate/Committee Code” failed to file a required campaign finance report.

According to the civil penalty schedule adopted by the State Board of Elections, a committee must be assessed a penalty of \$(Amount of Penalty) for not submitting this required campaign finance report by the deadline. The State Board of Elections will be forced to turn this matter over to the Commonwealth’s Attorney, who shall be required to initiate collection procedures and to determine if a criminal violation has occurred, if the failure to file the required report and pay the civil penalty is not satisfied within 60 days of receipt of this letter.

Filing Period Ending	Report Deadline	Assessed Penalty
	«Report_Due_Date»	\$«AMOUNT_FINED»
Invoice Number :	TOTAL AMOUNT DUE	\$«AMOUNT_FINED»

Please make your check in the amount of \$«AMOUNT_FINED» payable to the “Treasurer of Virginia.” Please reference invoice number «FINE_ID» and forward this payment to the State Board of Elections.

If you feel that you have received this letter in error please contact the Campaign Finance Division as soon as possible at 800-552-9745.

Sincerely,

Staff Name
Staff Title

Incomplete Report:

Candidate/Committee

Address

City, State Zip Code

Dear Filer:

This letter acknowledges receipt of your _____ report for your _____ campaign. This report, though filed timely, has been reviewed and it has been determined to be incomplete. The report is missing the following information required by Virginia Code § **24.2-947.4**:

Incomplete Required Information	Date Amended Report is Due

_____ has 10 days from the receipt of this letter to re-file the aforementioned completed report or will be subject to a fine as established in Virginia Code §**24.2-953.3**.

Please be advised that the penalties required to be assessed for late or incomplete filings are detailed in the *Campaign Finance Disclosure Act Summary* booklet or on our website at www.sbe.state.va.us. If you have any questions you may contact the Campaign Finance Division at 800-552-9745.

Sincerely,

Staff Name

Staff Title

Letter to Commonwealth's Attorney:

Commonwealth's Attorney
Address Line 1
Address Line 2
City, VA Zip Code

Dear Commonwealth's Attorney:

As required by §24.2-928 of the Code of Virginia, I am hereby notifying you that _____ has apparently willfully failed to file several required reports of contributions and expenditures after being duly notified and given an extended opportunity to do so. This person was a candidate in the _____
General/Special Election.

I have written to _____, advising him/her of his/her failure to file the reports in question, the letter also provided an extended deadline for the reports' receipt and it assessed the prescribed civil penalties for failure to comply. That letter also warned the candidate that if payment for this violation was not received in 30 days, we would be notifying your office, in order to collect the appropriate civil penalty. A copy of that letter is enclosed.

In accordance with §24.2-929 of the Code of Virginia, this matter is referred to you for your review. I ask that you please institute proceedings for the collection of the civil penalties assessed and, if you deem it appropriate, prosecution of a Class 1 misdemeanor as provided by §24.2-929.

Civil penalties collected are to be made payable to the *Treasurer of Virginia* and must be forwarded to this agency for deposit.

Thank you and if you require further information, you may contact me at 804-864-8901.

Sincerely,

Staff Name
Staff Title

21.18 Political Advertisements

Section [24.2-955](#) et seq. contains the requirements for disclosures on political advertisements. This section of the law is commonly known as "Stand By Your Ad" (SBYA). The regulatory framework significantly changed with the repeal of former § 24.2-1014 in 2002. Current statutes use a definitional approach requiring specific language of inclusion.

21.18.1 When Disclaimers are Required

A disclaimer is the statutorily required disclosure statement for all political advertisements that “expressly advocate” the election or defeat of a clearly identified candidate (e.g. “Vote for.”; “Support”; “Oppose”; “John Smith for Congress”). Case law includes advertising that is the functional equivalent of express advocacy (capable of no reasonable interpretation other than advocating the election or defeat of a clearly identified candidate). The proper disclaimer must be used in order to comply with the requirements of the law. Political advertisements can appear on television, radio, or print media.

21.18.1.1 Print Media Definition

The following is a list of specific items that constitute *Print Media*:

Billboards
Bumper Stickers
Cards
Sample Ballots
Newspaper ads
Newspaper inserts
Magazines
Mailed printed advertisements
Pamphlets
Fliers
Periodicals
Websites
Electronic mail (E-mail)
Outdoor advertising facilities (e.g. Barnsides, Baseball Stadiums)

A Disclaimer is Not Required on:

- Pens
- Pencils
- Magnets
- Buttons to be attached to wearing apparel
- Other such novelty items authorized by a candidate.

This list of exclusions is taken from § 24.2-955.1. Chapter 9.5 does not expressly include or exclude political campaign yard signs protected from discriminatory local content regulation under § 15.2-109. Because prior law did require disclaimers for yard signs, SBE recommends as a best practice that candidates consider voluntarily including a disclaimer on campaign yard signs they sponsor to avoid criticism. Candidates also need to contact local government administrators about content neutral local regulations that may apply. SBE's candidate bulletins discuss signage location issues such as DMV right of way restrictions.

21.18.2 Print Media Disclaimer Requirements for Candidates

The visual disclaimer required on print media advertisements must be displayed in a conspicuous manner. Advertisements with multiple folds, faces, or pages must include the disclaimer on at least one fold, face or page. Committees will be considered to have complied with the law if the disclaimer legend or statement conveys the required information.

21.18.2.1 “Paid for by...”

The disclaimer for every political advertisement sponsored by a candidate that appears in Print Media must state who paid for the advertisement. The disclaimer must include the name of the candidate or the candidate’s campaign committee.

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does **not** refer to any other clearly identified candidate, then the disclaimer can use “Authorized by... instead of “Paid for by...”

In the case of a print media advertisement that has more than one sponsor, the disclaimer must name all sponsors.

21.18.2.2 “Authorized by...”

If the political advertisement refers to any other clearly identified candidate, other than the sponsor of the advertisement, then the disclaimer must state whether it was authorized by the candidate mentioned in the advertisement.

The disclaimer must state “Authorized by... [Name of candidate], candidate for [Name of office]” or “Not Authorized by any other candidate.”

21.18.3 Television Disclaimer Requirements for Candidates

Televised political advertisements must also comply with the federal Communications Act of 1934, 47 USC §§ 315 and 317, as well as the Code of Virginia, § 24.2-957 et seq.

If the sponsor of the advertisement does not control the audio, then the disclaimer standards for Print Media apply. The disclaimer must be made in a conspicuous manner. Committees will be considered to have complied with the law if the visible disclaimer conveys the required information.

21.18.3.1 “Paid for by...” Visual

Every televised political advertisement sponsored by a candidate must visually state who paid for the advertisement. The statement must be 20 scan lines in size and must include the name of the candidate or the candidate’s campaign committee. The statement must appear on screen for at least four (4) seconds per 47 U.S.C. § 315.

If the candidate or his campaign committee sponsors the advertisement AND the advertisement does **not** refer to any other clearly identified candidate, then the disclaimer can use “Authorized by...” instead of “Paid for by...”

In the case of a television advertisement that has one or more sponsors, the disclaimer statement must name all sponsors and a sponsoring candidate must speak the disclaimer statement.

21.18.3.2 “Authorized by...” Spoken Disclaimer

Any televised political advertisement sponsored by a candidate that refers to another clearly identified candidate or candidates not sponsoring the advertisement must include a disclaimer spoken by the sponsoring candidate. At least the following language must be included: “I am... (Or “This is...” [Name of candidate], candidate for [name of office], and I (or “my campaign”) sponsored this advertisement.” There must be a full-screen, un-obscured photographic picture or actual appearance of the candidate throughout the entire spoken statement.

The spoken statement can be spoken at any time during the advertisement unless the duration of the advertisement is more than 5 minutes. If over 5 minutes, the spoken statement must be delivered at the beginning and the end of the advertisement.

If multiple candidates sponsor the advertisement, then at least one sponsoring candidate must speak the disclaimer statement.

21.18.4 Radio Disclaimer Requirements for Candidates

Political advertisements broadcast on radio must also comply with the federal Communications Act of 1934, 47 USC §§ 315 and 317, as well as the Code of Virginia, § 24.2-958 et seq. The disclaimer statement must last at least two seconds and must be spoken so that its contents can be easily understood.

If the radio advertisement has multiple sponsors, the disclaimer statement must name all sponsors and the candidate must speak the disclaimer statement. If multiple candidates sponsor the advertisement, then at least one candidate must speak the disclaimer statement.

21.18.4.1 Spoken Disclaimer

Any radio broadcast political advertisement sponsored by a candidate that refers to another clearly identified candidate not sponsoring the advertisement must include a disclaimer spoken by the sponsoring candidate. At least the following language must be included: “I am... (Or “This is...” [Name of candidate], candidate for [name of office], and I (or “my campaign”) paid for this advertisement.”

If the candidate or his campaign committee sponsored the advertisement AND the advertisement does **not** refer to any other clearly identified candidate, then the disclaimer can use “Authorized by ...” instead of “Paid for by...”

21.18.5 Campaign Telephone Call Disclaimer Requirements

Campaign telephone calls subject to Chapter 9.5, disclaimer requirements are:

- 1) a series of telephone calls, electronic or otherwise,
- 2) made to twenty-five or more telephone numbers in the Commonwealth,
- 3) during the 180 days before a general or special election or during the ninety days before a primary,
- 4) conveying or soliciting information relating to any candidate or political party participating in the election or primary, and

- 5) under an agreement to compensate the telephone callers.

Section 24.2-955.3 specifies that a violation of the telephone call disclaimer requirements will not void any election.

It is unlawful for any candidate or campaign committee to make campaign telephone calls or to contract with persons making telephone calls without disclosing before the conclusion of each telephone call, information to identify the candidate or campaign committee that has authorized and is paying for the calls. The requirement does not apply if the call is terminated prematurely by means beyond the maker's control. The person making the campaign telephone calls must disclose the following information prior to the conclusion of the call:

- The name of the candidate(s) or candidate campaign committee(s) paying for the call; and
- The name of the candidate(s) or candidate campaign committee(s) who authorized the calls.

Effective 7/2010, HB 215 prohibits any candidate, candidate campaign committee, person, corporation, or political committee making telephone calls to intentionally modify caller identification information in order to mislead the recipient as to the identity of the caller (§§ 24.2-959 and 24.2-959.1).⁹

21.18.6 Procedure for Reporting Violations to Disclaimer Requirements

In contrast to campaign finance reports, the law does not impose any duty on local election officials to report or sanction possible advertising violations. Because of the politically charged nature of campaign advertising, complaints alleging disclosure violations normally originate from a citizen.

All complainants should be referred to SBE which has authority to assess civil penalties payable to the State Treasurer and refer possible willful violations to the appropriate Commonwealth's Attorney for investigation. (§ 24.2-955.3).

21.18.7 Penalties for Candidates for General Assembly, Local or Constitutional Office

The following table summarizes the penalties for General Assembly, local or constitutional office candidates and/or their campaign committees that sponsor political campaign advertisements calls without a disclaimer:

Type/Total Expenditures per cycle	Within 14 days pre-election	More than 14 days
Print /< \$10,000	\$500	\$100
Print/>\$ 10,000	\$1,000	\$500
TV /< \$10,000	\$1,000	\$500
TV/>\$ 10,000	\$2,500	\$1,000
Radio /< \$10,000	\$500	\$250
Radio>\$ 10,000	\$1,000	\$500

⁹ Updated 7/2010 (HB 215)

21.18.7.1 Print Media

Violators whose total expenditures for the election cycle are less than \$10,000 are assessed a penalty of **\$100** unless the advertisement appears in the 14 days before or on the relevant Election Day, in which case the penalty is **\$500**.

Violators whose total expenditures for the election cycle are \$10,000 or more are assessed a penalty of **\$500** unless the advertisement appears in the 14 days prior to or on the relevant Election Day, in which case the penalty is **\$1,000**.

21.18.7.2 Television

Violators whose total expenditures for the election cycle are less than \$10,000 are assessed a penalty of **\$500** unless the advertisement is broadcast in the 14 days before or on the relevant Election Day, in which case the penalty is **\$1,000**.

Violators whose total expenditures for the election cycle are \$10,000 or more are assessed a penalty of **\$1,000** unless the advertisement is broadcast in the 14 days before the relevant Election Day, in which case the penalty is **\$2,500**.

Penalties for multiple broadcasts of the same advertisement are capped at \$10,000.

21.18.7.3 Radio

Violators whose total expenditures for the election cycle are less than \$10,000 are assessed a penalty of **\$250** unless the advertisement is broadcast in the 14 days before or on the relevant Election Day, in which case the penalty is **\$500**.

Violators whose total expenditures for the election cycle are \$10,000 or more are assessed a penalty of **\$500** unless the advertisement is broadcast in the 14 days before the relevant Election Day, in which case the penalty is **\$1,000**.

Penalties for multiple broadcasts of the same advertisement are capped at \$10,000.

21.18.7.4 Campaign Telephone Calls

Section 24.2-955.3 authorizes a civil penalty not to exceed **\$2,500 per occurrence** for violation of the campaign telephone call disclaimer requirement.